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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,997	07/21/2003	Dale W. Petty	EH-10662R (02-391)	9899
34704	7590	08/17/2006	EXAMINER	
BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				RODRIGUEZ, WILLIAM H
ART UNIT		PAPER NUMBER		
		3746		

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/625,997	PETTY ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	William H. Rodríguez	3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 June 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) Claim(s) 1-5,9-13 and 16-18 is/are allowed.
- 6) Claim(s) 14 and 15 is/are rejected.
- 7) Claim(s) 19 and 20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 June 2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/18/06</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## FINAL REJECTION

This office action is in response to the amendment and remarks filed 6/6/06.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 19-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 19 recites the limitation "the second divergent flap" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by **Bouiller et al. (US 5,934,564)**.

**Bouiller** teaches a turbine engine nozzle comprising: an upstream flap 8; a downstream flap 10 pivotally coupled to the upstream flap for relative rotation about a hinge axis; and an \*actuator linkage 20 coupled to the downstream flap along a forward half thereof for actuating the upstream and downstream flaps between a plurality of throat area conditions (S1), said throat

being formed along a longitudinally convex surface portion of the downstream flap, said throat is formed downstream of a hinge axis coupling the upstream flap to the downstream flap. See particularly Figures 1 and 2.

\*Note: In the invention, the actuator linkage is the secondary link 100 while the actuator is part of the synchronization ring 62. In Bouiller, using applicant's own definition of an "actuator linkage", element 20 is the actuator linkage which is connected to an actuator 14 through drive collar 12.

In short, an "actuator linkage" is a link, lever or bar connected directly or indirectly to an actuator.

***Allowable Subject Matter***

5. Claims 1-5, 9-13 and 16-18 are allowed.
6. Claims 19 and 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

With respect to claim 1, the following is an examiner's statement of reasons for allowance: the prior art of record neither discloses nor makes obvious the combination set forth in the independent claims, and especially does not show "*an actuator linkage coupled to the downstream flap along a forward half thereof for actuating the upstream and downstream flaps between a plurality of throat area conditions while permitting aerodynamically-induced orientation changes of the downstream flap*", in combination with the other claim limitations.

With respect to claim 4, the following is an examiner's statement of reasons for allowance: the prior art of record neither discloses nor makes obvious the combination set forth in the independent claims, and especially does not show "*a downstream flap pivotally coupled to the upstream flap for relative rotation about a hinge axis permitting aerodynamically-induced mode changes of the downstream flap; and means for actuating articulation of the upstream and downstream flaps of the plurality of flap subassemblies within a range of areas of a throat along the downstream flap while minimizing changes in throat area at a given design point induced by said mode changes*", in combination with the other claim limitations.

With respect to claim 16, the following is an examiner's statement of reasons for allowance: the prior art of record neither discloses nor makes obvious the combination set forth in the independent claims, and especially does not show "*an actuator linkage coupled to the downstream flap along a forward half thereof for actuating the upstream and downstream flaps between a plurality of throat area conditions and comprising a bell crank and a transfer link coupling the bell crank to the downstream flap*", in combination with the other claim limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

7. Applicant's arguments with respect to new claims 14 and 15 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

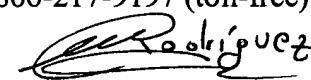
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Rodríguez whose telephone number is 571-272-4831. The examiner can normally be reached on Monday-Friday 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy S. Thorpe can be reached on 571-272-4444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/16/06

William H. Rodríguez  
Primary Examiner  
Art Unit 3746